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October 16, 2018

Via ECF

Hon. Loretta A. Preska
Senior United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

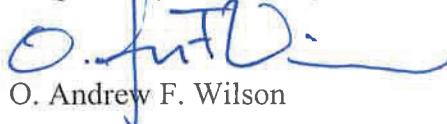
Re: Lopez, et al. v. City of New York, et al., 17 Civ. 00181 (LAP)

Your Honor:

Together with the law firm of Romano & Kuan, this firm represents plaintiffs Eliezer Lopez and Suhail Laureano. We reply to the City's Letter (Dkt. 38) in opposition to our request for reconsideration of that portion of the Order that dismissed Plaintiffs' federal claim. Dkt. 36.

Contrary to the City's Letter, Plaintiffs' conditional remand proposal was not an unconditional "offer" to dismiss their federal claim. As set forth in our previous letters, Plaintiffs only consented to dismiss their federal claim if Mr. Lopez could be spared the pain of longer travel to the courthouse. Plaintiffs did not offer to both withdraw their federal claim and proceed in federal court and the parties never briefed such a proposal. Plaintiffs' request for reconsideration rests on the surmise that the Court may have overlooked either the conditional nature of their proposal or controlling precedent that provides "[i]n general, a district court's failure to provide an opportunity to be heard prior to a *sua sponte* dismissal ... is, by itself, grounds for reversal." *Catzin v. Thank You & Good Luck Corp.*, 899 F.3d 77, 83 (2d Cir. 2018) (internal quotation and citation omitted). Given the conditional nature of Plaintiffs' proposal it would not make sense to arrive at the harsh outcome where Plaintiff would be forced to endure the physical pain of prolonged travel to court and the baseless dismissal of his federal claim.

Respectfully Submitted,


O. Andrew F. Wilson

cc. All counsel of record (via ECF)